

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Data Enhancements and Reporting)
Requirements for Flats) Docket No. RM2018-1
)

**MOTION OF
ASSOCIATION FOR POSTAL COMMERCE
FOR ACCESS TO NONPUBLIC MATERIALS**

(December 15, 2017)

Pursuant to 39 C.F.R. § 3007.40, the Association for Postal Commerce (“PostCom”) respectfully requests access by three of its outside counsel and its President to the Nonpublic Material Provided in Response to CIR No. 1, USPS-RM2018-1/NP1, on December 4, 2017.

The Postal Service states that the material in question includes “facility-specific service performance material.” Notice of the United States Postal Service of Filing of USPS-RM2018-1/1, USPS-RM2018-1/NP1, and Application for Nonpublic Treatment (“USPS Notice”) at 1. While it does not indicate what competitive harm would befall the Postal Service if this information were released, the Postal Service refers to a previous filing of similar information under seal in Docket No. ACR2016. There, the Postal Service indicated the release of such material could allow its competitors to “target locations with relatively weaker performance and . . . focus sales and marketing efforts in those locations to the Postal Service’s detriment.” ACR2016, Notice of the United States Postal Service of Filing of USPS-FY16-NP46 at 1.

The Postal Service filed this material in response to a Commission Information Request. The Commission has indicated that the Postal Service's responses to information requests in this docket will form the basis for further discussion at a subsequent technical conference in this docket. Order No. 4142 at 4-5. PostCom's representatives therefore require access to these materials to meaningfully participate in those discussions and comment on any proposal the Commission ultimately develops.

Accordingly, PostCom requests that the Commission authorize the following individuals to review the nonpublic material:

Matthew D. Field, partner, Venable LLP

Ian D. Volner, partner, Venable LLP

Christopher L. Boone, associate, Venable LLP

Michael Plunket, President and CEO, PostCom

Assuming the justification for protecting the information in USPS-RM2018-1/NP is the same as that set forth in ACR2016, PostCom submits that there are no competitive concerns associated with providing access to the material to the individuals listed above. Three of the individuals are counsel to PostCom with no role in competitive decision-making for any Postal Service competitor. The fourth individual is the President and CEO of PostCom, an organization that is not itself a competitor of the Postal Service, and has no role in the competitive decision-making for any Postal Service competitor. None of the identified individuals are responsible for activities related to "sales and marketing efforts" that could be detrimental to the Postal Service. Attached are executed declarations by the four individuals

committing to their compliance with the terms of the protective conditions established by the Commission to limit the disclosure and use of the sealed material.

Respectfully submitted,

/s/ Matthew D. Field

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*Counsel for Association for Postal
Commerce*

December 15, 2017

STATEMENT OF COMPLIANCE WITH PROTECTIVE CONDITIONS

The Postal Service has filed non-public materials identified as USPS-RM2018-1/NP1, Nonpublic Material Provided in Response to CIR No. 1, in Commission Docket No. RM2018-1. The Postal Service has requested confidential treatment of the materials (hereinafter “these materials”).

The following protective conditions limit access to these materials. Each person seeking to obtain access to these materials must agree to comply with these conditions, complete the attached certifications, and provide the completed certifications to the Commission and counsel for the Postal Service.

1. Access to these materials is limited to a person as defined in rule 5(f), 39 CFR 3001.5(f), or an individual employed by such person, or acting as agent, consultant, contractor, affiliated person, or other representative of such person for purposes related to the matters identified as Docket No. RM2018-1, *Data Enhancements and Reporting Requirements for Flats*. However, no person involved in competitive decision-making for any entity that might gain competitive advantage from use of this information shall be granted access to these materials. “Involved in competitive decision-making” includes consulting on marketing or advertising strategies, pricing, product research and development, product design, or the competitive structuring and composition of bids, offers or proposals. It does not include rendering legal advice or performing other services that are not directly in furtherance of activities in competition with a person or entity having a proprietary interest in the protected material.
2. No person granted access to these materials is permitted to disseminate them in whole or in part to any person not authorized to obtain access under these conditions.
3. Immediately after access has terminated under rule 39 C.F.R. §§ 3007.41 or 3007.51, a person (and any individual working on behalf of that person) who has obtained a copy of these materials shall certify to the Commission:
 - (a) That the copy was maintained in accordance with these conditions (or others established by the Commission); and
 - (b) That the copy (and any duplicates) either have been destroyed or returned to the Commission.

4. The duties of each person obtaining access to these materials shall apply to material disclosed or duplicated in writing, orally, electronically, or otherwise, by any means, format, or medium. These duties shall apply to the disclosure of excerpts from or parts of the document, as well as to the entire document.
5. All persons who obtain access to these materials are required to protect the document by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized disclosure of the document as those persons, in the ordinary course of business, would be expected to use to protect their own proprietary material or trade secrets and other internal, confidential, commercially sensitive, and privileged information.
6. These conditions shall apply to any revised, amended, or supplemental versions of these materials provided in the matters identified as Docket No. RM2018-1, *Data Enhancements and Reporting Requirements for Flats*.
7. The duty of nondisclosure of each person obtaining access to these materials is continuing, terminable only by specific order of the Commission, or as specified in paragraphs 9 and 10, below.
8. Each person granted access to these materials consents to these or such other conditions as the Commission may approve.
9. Any written materials that quote or contain materials protected under these protective conditions are also covered by the same protective conditions and certification requirements, and shall be filed with the Commission only under seal. Documents submitted to the Commission as confidential shall remain sealed while in the Secretary's office or such other place as the Commission may designate so long as they retain their status as stamped confidential documents.
10. If a court or other administrative agency subpoenas or orders production of confidential information which a person has obtained under the terms of this protective order, the target of the subpoena or order shall promptly (within 2 business days) notify the Postal Service of the pendency of the subpoena or order to allow it time to object to that production or seek a protective order.

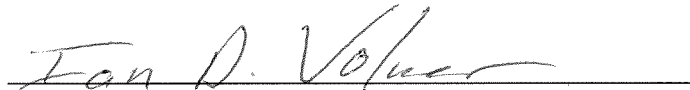
CERTIFICATION

The undersigned represents that:

Access to USPS-RM2018-1/NP1, Nonpublic Material Provided in Response to CIR No. 1, in Commission Docket No. RM2018-1, *Data Enhancements and Reporting Requirements for Flats*, has been authorized by the Commission.

The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matter identified as Docket No. RM2018-1, *Data Enhancements and Reporting Requirements for Flats*. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Signature:

A handwritten signature in cursive script, reading "Ian D. Volner", is written over a horizontal line.

Ian D. Volner
Partner, Venable LLP
(representing Association for Postal Commerce.)

December 15, 2017

CERTIFICATION

The undersigned represents that:

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Signature:

A handwritten signature in dark ink, appearing to read "Matthew D. Field", is written over a horizontal line.

Matthew D. Field
Partner, Venable LLP
(representing Association for Postal Commerce)

December 14, 2017

CERTIFICATION

The undersigned represents that:

Access to USPS-RM2018-1/NP1, Nonpublic Material Provided in Response to CIR No. 1, in Commission Docket No. RM2018-1, *Data Enhancements and Reporting Requirements for Flats*, has been authorized by the Commission.

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Signature:



Christopher L. Boone
Associate, Venable LLP
(representing Association for Postal Commerce)

December 15, 2017

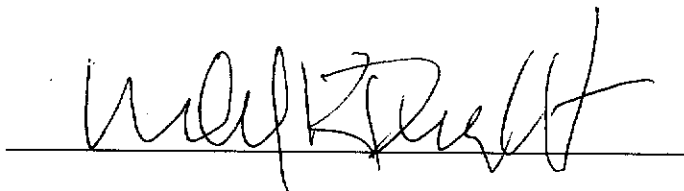
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Signature:

A handwritten signature in dark ink, appearing to read "Michael Plunkett", is written over a horizontal line.

Michael Plunkett
President and CEO, Association for Postal
Commerce

Dec 14, 2017